IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

Bail Appl..No. 3879 of 2007()

O.R.NO.1/07 OF GURUNATHANMANNU FOREST STATION

PETITIONER/1ST ACCUSED

DANIEL, S/O.SAMUEL, EDAVANAKUZHIYIL,
MOORTHIMON, THEKKUTHODE P.O., THANNITHODE VILLAGE,
KOZHENCHERRY TALUK, PATHANAMTHITTA.

BY ADV. SRI.S.MUHAMMED HANEEFF
SRI.R.KRISHNAKUMAR (CHERTHALA)

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REP.BY DY.RANGER, GURUNATHANMANNU FOREST STATION,
PATHANAMTHITTA (OR NO.1/2007) REP.BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO. 3879 OF 2007

Dated this the 27th day of June, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations of having committed the offence punishable under Sec.27 of the Kerala Forest Act. The crux of the allegations is that the petitioner and others on 18/5/07 cut and removed a teak tree from the reserve forest. According to the petitioner, he is absolutely innocent of the allegation. He was not aware of such an allegation at all. Only when the forest officials started attempting to apprehend the petitioner, did he know of such an allegation against him. He is willing to abide by any conditions. Anticipatory bail may, in these circumstances, be granted to the petitioner, it is prayed.

2. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the petitioner is involved in one other similar crime. There are no

circumstances whatsoever to justify the invocation of the discretion under Sec.438 of the Cr.P.C. In these circumstances, this petition may be dismissed and the petitioner may be directed to seek regular bail in the ordinary course, submits the learned Public Prosecutor.

3. I find merit in the opposition by the learned Public Prosecutor. No circumstance justifying the invocation of the discretion under Sec.438 of the Cr.P.C. is shown to exist. This is an eminently fit case where the petitioner must appear before the learned Magistrate or the Investigating Officer and then seek bail in the ordinary and normal course. Needless to say, if the petitioner so surrenders before the Investigating Officer or the learned Magistrate and then applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously – on the date of surrender itself.

4. With the above observations, this Bail Application is dismissed.

Sd/-
(R. BASANT, JUDGE)

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//true copy// P.S. To Judge